

2012-Or-____

**AN ORDINANCE
of the
CITY OF
MINNEAPOLIS**

By Glidden

**Amending Title 3, Chapter 47 of the Minneapolis Code of Ordinances
relating to Air Pollution and Environmental Protection: Air Pollution.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That the title of Chapter 47 of the Minneapolis Code of Ordinances be amended to read as follows:

CHAPTER 47. ENERGY AND AIR POLLUTION

Section 2. That Chapter 47 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 47.190 to read as follows:

47.190. Commercial building rating and disclosure. (a) *Definitions.* The following words shall have the meaning ascribed to them, unless the context clearly indicates a different meaning:

Benchmark means to input the total energy consumed for a building and other descriptive information for such building as required by the benchmarking tool.

Benchmarking information means information related to a building's energy consumption as generated by the benchmarking tool, and descriptive information about the physical building and its operational characteristics. The information shall include, but need not be limited to:

- (1) Building address;
- (2) Energy use intensity (EUI);
- (3) Annual greenhouse gas emissions;
- (4) Water use; and

(5) The energy performance score that compares the energy use of the building to that of similar buildings, where available.

Benchmarking tool means the United States Environmental Protection Agency's Energy Star Portfolio Manager tool, or an equivalent tool adopted by the director.

Building owner means an individual or entity possessing title to a building, or an agent authorized to act on behalf of the building owner.

City-owned building means any building, or group of buildings on the same tax lot, owned by the City of Minneapolis containing 25,000 or more gross square feet of an occupancy use other than residential or industrial.

Covered building means:

(1) Any building containing at least 50,000 but less than 100,000 gross square feet of an occupancy use other than residential or industrial shall be classified as a Class 1 covered building;

(2) Any building containing 100,000 or more gross square feet of an occupancy use other than residential or industrial shall be classified as a Class 2 covered building.

The term "covered building" shall not include any building owned by the local, county, state, or federal government or other recognized political subdivision.

Director means the head of the department to which the environmental services division of the city reports or the director's designee.

Energy means electricity, natural gas, steam, heating oil, or other product sold by a utility for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.

Energy performance score means the numeric rating generated by the Energy Star Portfolio Manager tool or equivalent tool adopted by the director that compares the energy usage of the building to that of similar buildings.

Energy Star Portfolio Manager means the tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative energy performance of buildings nationwide.

Tenant means a person or entity occupying or holding possession of a building or premises pursuant to a rental agreement.

Utility means an entity that distributes and sells natural gas, electric, or thermal energy services for buildings.

(b) Benchmarking required for city-owned buildings. No later than May first, 2013, and no later than every May first thereafter, each city-owned building shall be benchmarked for the previous calendar year by the entity primarily responsible for the management of such building, in coordination with the director.

(c) Benchmarking required for covered buildings. Building owners shall annually benchmark for the previous calendar year each covered building and obtain an energy performance score as available according to the following schedule:

(1) All Class 2 covered buildings by May first, 2014 and by every May first thereafter; and

(2) All Class 1 covered buildings by May first, 2015 and by every May first thereafter.

(d) Disclosure and publication of benchmarking information. The building owner shall annually provide benchmarking information to the director, in such form as established by the director's rule, by the date provided by the schedule in subsections (b) and (c).

(1) The director shall make readily available to the public, and update at least annually, benchmarking information for the previous calendar year according to the following schedule:

a. Each city-owned building by July thirtieth, 2013 and by every July thirtieth thereafter;

b. Each Class 2 covered building by July thirtieth, 2015 and by every July thirtieth thereafter;

c. Each Class 1 covered building by July thirtieth, 2016 and by every July thirtieth thereafter.

(2) The director shall make available to the public, and update at least annually, the following information:

a. Summary statistics on energy consumption in city-owned buildings and covered buildings derived from aggregation of benchmarking information for those buildings;

b. Summary statistics on overall compliance with this section;

c. For each city-owned building and covered building:

1. The status of compliance with the requirements of this chapter;
2. Annual summary statistics for the building, including energy use intensity, annual greenhouse gas emissions, water use per gross square foot, and an energy performance score where available; and
3. A comparison of benchmarking information across calendar years for any years such building was benchmarked.

(e) Exemptions. The director may exempt a building owner from the benchmarking requirements of subsection (c) if the building owner submits documentation establishing any of the following:

- (1) The building is presently experiencing qualifying financial distress in that the building is the subject of a qualified tax lien sale or public auction due to property tax arrearages, the building is controlled by a court-appointed receiver based on financial distress, the building is owned by a financial institution through default by the borrower, the building has been acquired by a deed in lieu of foreclosure, or the building has a senior mortgage which is subject to a notice of default; or
- (2) The building or areas of the building subject to the requirements of this section have been less than fifty (50) percent occupied during the calendar year for which benchmarking is required; or
- (3) The building is new construction and the certificate of occupancy was issued less than two (2) years prior to the applicable benchmarking deadline established pursuant to subsection (c).

(f) Providing benchmarking information to the building owner. Each tenant located in a covered building subject to this chapter shall, within 30 days of a request by the building owner and in a form to be determined by the director, provide all information that cannot otherwise be acquired by the building owner and that is needed by the building owner to comply with the requirements of this section. Where the building owner is unable to benchmark due to the failure of any or all tenants to report the information required by this subsection, the owner shall complete benchmarking using such alternate values as established by the director. The director shall periodically evaluate the quality of any alternate values established pursuant to this subsection and propose revisions that increase the quality of such values.

(g) Violations. It shall be unlawful for any entity or person to fail to comply with the requirements of this section or to misrepresent any material fact in a document required to be prepared or disclosed by this section.

(h) *Enforcement.* The director and authorized representatives and designees shall enforce the provisions of this section. If it is determined that a building owner or any person subject to the provisions of this section fails to meet any requirement of this section, the director or the director's designee shall mail a warning notice to the building owner or person. The notice shall specify the reasons why the building owner or person fails to meet the requirements set forth in this section. The notice shall indicate that the person has forty-five (45) business days to comply with the applicable requirement. Any building owner or person who fails, omits, neglects, or refuses to comply with the provisions of this section after the period of compliance provided for in the required warning notice shall be subject to an administrative penalty pursuant to Chapter 2 and the schedule of civil fines adopted by the city council. The provisions of Chapter 2 shall govern the appeal and hearing rights afforded to any such person. Additionally, failure to comply with this section may constitute good cause for the denial, suspension, revocation or refusal to issue the certificate of commercial building registration provided for pursuant to Chapter 174, Article IV of this Code or any applicable business license held by the building owner or person. This section may also be enforced by injunction, abatement, mandamus, or any other appropriate remedy in any court of competent jurisdiction.

(i) *Rules.* The director shall promulgate and publish such rules as deemed necessary to carry out the provisions of this section.

(j) *Severability.* If any portion of this section is determined to be invalid or unconstitutional by a court of competent jurisdiction, that portion shall be deemed severed from the regulations, and such determination shall not affect the validity of the remainder of the section. If the application of any provision of this section to a particular person or property is determined to be invalid or unconstitutional by a court of competent jurisdiction, such determination shall not affect the application of said provision to any other person or property.